

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

UNITED STATES OF AMERICA

v.

No. 7:19-CR-013-O

DAVID ENRIQUE ROJAS ROJAS (01)

FACTUAL RESUME

INDICTMENT:

Count One – Enticement of a Minor, in violation of 18 U.S.C. § 2422(b).

PLEA:

Count One - Enticement of a Minor, in violation of 18 U.S.C. § 2422(b).

PENALTY:

The minimum and maximum penalties the Court can impose on Count One include:

- a. imprisonment for a period not less than 10 years, and not more than life;
- b. a fine not to exceed \$250,000, or twice any pecuniary gain to the defendant or loss to the victim(s);
- c. a term of supervised release of any term of years or life but not less than five years, which is mandatory under the law and will follow any term of imprisonment. Revocation of the term of supervised release could result in an additional period of confinement. The effect of a revocation of a term of supervised release is to make the overall period of incarceration longer;
- d. a mandatory special assessment of \$100;
- e. a second mandatory special assessment of \$5,000, unless the Court finds the defendant to be indigent, must also be imposed pursuant to 18 U.S.C. § 3014 for offenses occurring on or after May 29, 2015;

- f. restitution to victims or to the community;
- g. forfeiture of property; and
- h. costs of incarceration and supervision.

ELEMENTS OF THE OFFENSE:

To establish the offense alleged in Count One of the Indictment, the government must prove the following elements beyond a reasonable doubt:

- First: That the defendant knowingly attempted to persuade, induce, or entice an individual under the age of eighteen (18) to engage in sexual activity;
- Second: That the defendant used a facility or means of interstate commerce, that is, a cell phone connected to the Internet;
- Third: That the defendant believed that such individual was less than eighteen (18) years of age; and
- Fourth: That had the sexual activity actually occurred, the defendant could have been charged with a criminal offense under Texas state law, that is, a violation of Texas Penal Code Section 22.021, aggravated sexual assault of a child.

STIPULATED FACTS:

1. From on or about July 18, 2019 until on or about July 26, 2019, in the Northern District of Texas, the defendant, **David Enrique Rojas Rojas (Rojas)**, did use any means and facility of interstate and foreign commerce to knowingly attempt to persuade, induce, and entice an individual who had not attained the age of 18 years to engage in sexual activity for which a person can be criminally charged under Texas state law, that is, a violation of Texas Penal Code Section 22.021, aggravated sexual assault of a child.

2. Specifically, on July 18, 2019, an Air Force Office of Special Investigations (AFOSI) Undercover Agent (UCA) responded to an advertisement on an Internet message board website servicing the Wichita Falls, Texas area. The title of the advertisement read, "Looking for a girl or girls to please (dallas)." The advertisement appeared in a section of the Internet message board called "Lets date" under the "guys for women" category. The content of the advertisement stated, "Hello there ladies, I'm 23 Hispanic guy in the military in town looking for some fun. I hope I can find a luck woman to please before I leave again. Kik¹ Henry123rock." Additionally, the advertisement included a photograph of a male who was nude from the waist up. The UCA used an online pseudonym "Alyssa Lee."

3. On July 18, 2019, the UCA responded to the Kik username "Henry123rock." The Kik user, later identified to be **Rojas**, identified himself to the UCA as "Henry Rock." The following exchange occurred:

UCA: Heyy, this youu from doublelist?

Rock: Yes

Rock: Thanks for replying to my post

UCA: Yeahh. Hi I'm Aly [smiley face emoticon]

Rock: I'm Henry. Nice to meet you aly

Rock: So tell me about yourself. Maybe send pics

UCA: Well I turn 15 later this year .. I live on Sheppard with my parents. Their in the Air Force. I like running lol. Wbu?

¹ Kik is an instant messaging mobile application that allows users to exchange messages, photos and videos, and to engage in video chat.

Rock: What are you doing on doublelist

Rock: I like running too

4. Rock asked the UCA, "Do your parents know about this?" The UCA responded, "No way, my mom would KILL me if she knew I was talking to someone older!!"

Rock then replied, "Can't have that" and "don't worry I'll do my best to not get you in trouble."

5. Rock asked the UCA, "So your 14?" The UCA responded, "Yupp, I'll be 15 in november," to which Rock responded "nice." The two continued to communicate via Kik with Rock asking the UCA about her sexual experiences, which included "what makes you horny" and "have you ever touched yourself?" Rock told the UCA about his masturbation methods and that he gets "tired of .. jerking it myself so I try to find a girl to make her scream of pleasure ... Sorry I dunno if you feel comfortable me talking about this." The UCA responded, "It's okay. & I think I'm comf talking about it with youu."

6. Rock told the UCA "girls love it when they get with me. I make them orgasm a lot and I love doing that to them [heart eyes emoticon]." The UCA responded utilizing two surprise face emoticons. Rock responded, "Yea lol. If we ever got together. I can make you experience that if you want." The UCA responded hesitantly and asked if it hurt, to which Rock responded "Nah. I mean it all depends on the person you do it with. Like with me ... I'll be very patient and take it really slow. Take as many breaks as you need." The UCA stated she was nervous and said "I'm down to tryy I guess [female shoulder shrug emoticon]." The UCA stated, "We can wait till I'm older if youu want." Rock responded, "I don't mind trying it before your 18 lol."

7. Rock explained to the UCA about how a male penis becomes erect, how a male orgasms, and about penis ejaculation. Rock told the UCA "if you are ever curious let me know. I'll let you study my body." The UCA asked Rock if he wanted her to study his body, and Rock responded she could, if she was curious about a male's body. Rock said, "I would like to see your body [money covering mouth emoticon]." The UCA told Rock that she was nervous. Rock stated he was also nervous and the UCA asked why. Rock stated, "Cause I've never actually met someone that I met online lol especially a 14 year old [sweating face emoticon]."

8. Rock proposed meeting on Friday (July 26, 2019) and stated, "if your okay with it we could try exploring each other's bodies [male shoulder shrug emoticon] [monkey covering eyes emoticon]." The UCA asked if it would hurt and asked Rock what he wanted to explore. Rock stated, "I wanna explore with my lips [monkey covering mouth emoticon]. My tongue." The UCA asked Rock what he wanted to explore. Rock responded, "From your neck ... Down to your chest area. Then continue down past your belly button. Your thighs." The UCA responded affirmatively. Rock continued, "Inner thighs. Go slow. It will feel amazing for you I promise. And if your okay with it I'll move on to your pussy [monkey covering mouth emoticon] [heart eyes emoticon] give a few licks." The UCA asked if there was anything that Rock wanted her to do. Rock responded, "I'm sure you'll like it. I'm not gonna make you do anything you don't want to do." Rock asked the UCA if she wanted to suck his penis and asked the UCA if she wanted to "see it before we meet." The UCA answered, "Up to youu I guess [nervous face emoticon] I mean it's your thingg lol." Rock then sent a photograph of his penis.

9. Rock explained to the UCA how to masturbate and asked the UCA if she ever touched herself to “where it feels good for you?” The UCA responded, “Not really [monkey covering eyes emoticon].” Rock said, “Hehe how about you try it right now [wink face emoticon].” Rock explained to the UCA to masturbate by “slowly touching till you get to your nipple and circle it with your finger before touching the actual nipple.” The UCA told Rock that it was ticklish. Rock asked the UCA if she liked it and said “if you do then if you let me suck on them I’ll do that with my tongue [tongue emoticon].” Rock then taught the UCA about the clitoris and said, “Lightly rub it with your finger.” The UCA asked Rock what it was supposed to feel like, to which Rock responded “tingly sensation. Good feeling.” Rock instructed the UCA to touch her clitoris and nipple simultaneously. The UCA responded, “It’s too ticklish to do it how youu said.” Rock stated, “Or maybe just stick to your clit and maybe with the other hand finger yourself.” Rock thanked the UCA for trying and said “don’t worry if you want on Friday I’ll show you a few tricks in person [wink face emoticon].”

10. Rock told the UCA, “I just jerked off and it was amazing. I recorded the ejaculation and took pics incase you wanted to see how a guy ejaculates lol.” The UCA responded, “Omgg . .I’ve never reallyy seen that before lol.” Rock sent the UCA two videos of himself masturbating. The UCA replied, “That’s soo crazyy [monkey covering eyes emoticon] [monkey covering eyes emoticon].” Rock asked the UCA if she was comfortable with vaginal sex and said “if you feel comfortable for me to put it in your pussy. Then illl go really really slow. If anything I’ll probably just put the head of my dick in only.” The UCA responded, “I don’t wanna get preggers [sad face emoticon]”

and asked Rock if would use protection. Rock said he would wear a condom after first putting his penis inside of the UCA "with nothing on my penis" so "you can feel it better." Rock explained what the head of a penis was and sent a picture of his penis to the UCA with the head of the penis circled. The UCA responded, "Omgg lol. & okay [monkey covering eyes emoticon]." Rock said, "I'm gonna warm up your pussy with my tongue and fingers first so you'll be prepared for my dick."

11. Rock and the UCA agreed to meet at an address provided by the UCA located at Sheppard Air Force Base, which is located in the Wichita Falls Division of the Northern District of Texas. During a text conversation Rock expressed concern over getting caught being with a minor and wanted to meet at a location that wouldn't draw any attention. On July 26, 2019, Rock arrived on the Base, near the address provided by the UCA. Law enforcement intercepted Rock and identified him as **David Enrique Rojas Rojas**. **Rojas** was crying and asked, "what was going to happen to me," as he was being arrested. A search was conducted of his vehicle. Condoms, phones and a necklace in a box were discovered.

12. In order to communicate using the Kik messenger service, the user must have access to the Internet, which is a means and facility of interstate and foreign commerce.

13. The sexual activity **Rojas** described to the UCA would be a violation of Texas Penal Code § 22.021. Specifically, oral sexual contact and genital to genital sexual contact between an adult and a minor is against Texas state law.

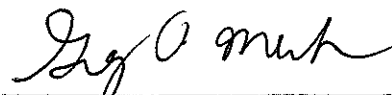
14. Rojas stipulates that the Internet is a means and facility of interstate commerce, as is the cell phone he used for sending messages to the UCA, which was connected to the Internet.

15. Rojas further agrees that the car he used to drive to the military base was used for the purpose of facilitating the commission of the offense of attempted enticement.

AGREED AND STIPULATED on this _____ day of _____, 2019.



DAVID ENRIQUE ROJAS ROJAS
Defendant



GREG O. MERKLE
Counsel for Defendant


I have been advised, and understand, that under the Sex Offender Registration and Notification Act, a federal law, I must register and keep the registration current in each of the following jurisdictions: where I reside; where I am an employee; and where I am a student. I understand that the requirements for registration include providing my name, my residence address, and the names and addresses of any places where I am or will be an employee or a student, among other information. I may also be required to provide information about intended travel outside the United States. I further understand that the requirement to keep the registration current includes informing at least one jurisdiction in which I reside, am an employee, or am a student not later than three business days after any change of my name, residence, employment, or student status. I have been advised, and understand, that failure to comply with these obligations subjects me to prosecution for failure to register under federal law, 18 U.S.C. Section 2250, which is punishable by a fine or imprisonment or both.



DAVID ENRIQUE ROJAS ROJAS
Defendant

09-06-19
Date

I am the defendant's counsel. I have carefully reviewed every part of this Factual Resume with the defendant, including the notice that he is required to register as a sex offender. To my knowledge and belief, my client's decision to enter into this Factual Resume is an informed and voluntary one.



GREG O. MERKLE
Attorney for Defendant

9-6-19

Date